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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,897	11/27/2002	Mark E. Addis	EH-10713(04-532)	5298
52237	7590	11/17/2006	EXAMINER	
BACHMAN & LAPOINTE, P.C. (P&W)			HARTMANN, GARY S	
900 CHAPEL STREET			ART UNIT	
SUITE 1201			PAPER NUMBER	
NEW HAVEN, CT 06510-2802			3671	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/065,897

Applicant(s)

ADDIS, MARK E.

Examiner

Gary Hartmann

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-13,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13,23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 9-13, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Reisinger et al. (U.S. Patent 5,066,024).

Reisinger discloses a brush seal with a plurality of bristles in a bristle arrangement (2) having a retention section (Figure 1, for example). There are a pair of plates (4, 5, 4', 5'), each having a surface which abuts, contacts and flanks the bristles of the bristle arrangement (Figures 1-3). There is a channel (Figure 3, for example) to frictionally engage the retention section. The channel extends to ends of the plates. Movement of the retention section is prevented.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9-14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffelner (U.S. Patent 5,026,252) in view of Hoffelner (U.S. Patent 5,688,105 or GB 2 304 158).

Hoffelner '252 discloses a brush seal with a plurality of bristles in a bristle arrangement (2) having a retention section (not shown, but inherent since the bristles are retained in a specific configuration). There are a pair of plates (8, 9), each having a surface which abuts, contacts and flanks the bristles of the bristle arrangement (Figure 1, for example). There is a channel (Figure 1, for example) to frictionally engage the retention section. The channel extends to ends of the plates. Movement of the retention section is prevented. While the specifics of the retention section are not shown, as the invention is directed elsewhere, Hoffelner does teach, in the '105 and '158 patents, a retention section configured in the manner claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the retention section of the '105 and '158 patents with the '252 patent in order to securely retain the bristle arrangement. As noted, the plates contact the bristles.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffelner, as applied above, and further in view of Wolfe et al. (U.S. Patent 6,250,640).

Hoffelner is silent regarding the configuration of the retention section; however, Wolfe et al. teaches using a weld joint to secure the bristles together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the weld joint of Wolfe et al. in the retention section of Hoffelner in order to securely retain the bristles.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reisinger, as applied above).

Reisinger does not specify a labyrinth seal; however, it is well known to use bristle arrangements in labyrinth seals. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used Reisinger is a labyrinth seal in order to obtain a seal suitable in a particular application.

### ***Response to Arguments***

Applicant's arguments filed 23 August 2006 have been fully considered but they are not persuasive. Once again, the examiner notes that patentable weight cannot be given to how the structure was configured prior to assembly. The limitations regarding to the configuration prior to having the plates secured together are essentially product-by-process limitations. Again, the claims are directed to an apparatus and the manner in which the apparatus was configured prior to being assembled into the claimed configuration is not patentable.

Regarding the plates contacting the bristle arrangement, note that it is the '252 patent that has been relied upon for the plate/bristle configuration. As discussed in the rejection above, the claimed configuration is taught by the primary reference.

Regarding claims 13 and 14, the '252 reference discloses the arrangement to be a ring, which meets the recitation of a packing ring. Since no further structure is recited with respect to the packing ring, no further patentable weight may be given to this term. Also note that the '252 reference is specifically disclosed to be a labyrinth seal.

Regarding claim 9, looking at Figure 1 of the '105 patent, the width has been taken as a horizontal section and the length has been taken as a vertical section. This meets claim recitations.

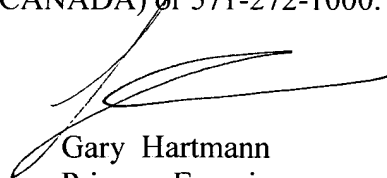
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Tuesday through Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gh



Gary Hartmann  
Primary Examiner  
Art Unit 3671